

# Taiwan Implementation of the Convention on the Rights of the Child

## NGO Alternative Report

March 2017

Prepared for the 1<sup>st</sup> State Report Review

### Submitted by

**Taiwan Fund for Children and Families**

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## 1. Reporting Organization

The Taiwan Fund for Children and Families (TFCF) is the biggest and one of the oldest children's welfare organizations in the island. It has offered services for children suffering from poverty and maltreatment since 1950. TFCF also provides international sponsorship services to poor children overseas through the ChildFund Alliance and through onsite direct services in Mongolia, Kyrgyzstan, Vietnam, and Cambodia. It is registered in Taiwan and is a full member of Accountable Now (formerly known as The INGO Accountability Charter).

## 2. Overview

There have been some significant improvements to children's rights since the first law of children's welfare was passed in 1973. In 2011, the Protection of Children and Youths Welfare and Rights Act brought the core values of the United Nations Convention on the Rights of the Child into real practice. This act not only enables the government and civil societies to focus on the welfare of children, but underscores the comprehensive rights of the child. Child protection legislation and implementation have been strengthened over the decades. For example, nowadays most five-year-olds who are in kindergarten know about the child protection hotline, 113. Additionally, the number of abused children also reached a plateau and has declined since 2014. The Taiwanese government collaborated with NGOs and private sectors have instituted the Child Development Accounts and Savings for the Future programs to help children overcome poverty from childhood to adulthood. In 2017, the new policy allowed all children who were born in 2016 and have been raised in low-income families set up a development account with 1:1 matching savings (maximum \$15,000 NTD/\$500USD per person per year) for education, employment training, and entrepreneurship when they turn 18 years old. More and more children have been consulted in the Committee of Children and Youth Welfare and Rights Promotion in local cities and counties, advocating for their perspectives on various issues related to their rights, from school uniform policy to strategies for preventing bullying and drug abuse.

Yet still not every child in Taiwan enjoys full human rights and can reach their maximum potential:

- While the infant mortality rate is 3.6-4.1 deaths per 1000 live births, similar to the average of most OECD countries, the infant mortality rate for indigenous children is twice higher than the general population. While indigenous children count for only 4% of the total population under age of 18, they represent 28% of deaths of children less than one year old. Lack of access to health and prenatal care is not uncommon in indigenous communities.
- The poverty rate has been underestimated. Only 6.5% (261,000) of all children are able to receive governmental benefits for low-income families. The government has been extremely resistant to examining low-income households.
- Income inequality is increasing. The ratio of educational expenses for the 20% wealthiest families versus those of the 20% poorest families increased from 8.7 times to 15.7 times in 15 years (1998-2013).
- Drug abuse rates in teenagers have been steadily increasing in recent decades, especially those of prescription drugs like Ketamin, along with synthetic drugs. The percentage of drug-related crimes committed by adolescents increased from 2.69% in 2011 to 3.67% in 2015.
- Corporal punishment is still common at school. Despite the fact that teachers are banned from using corporal punishment by law, and official reports claim that the corporal punishment rate has dropped from 27% to 3% in middle school and 8% to 3% in elementary school in recent years, over half of the children we serve in foster care institutions have experienced some degree of corporal punishment. This is especially notable in the many students who are unable to focus in class or have behavior issues. In January 2017, the Control Yuan issued a report asking for a re-investigation of severe corporal punishment in a special school for children with intellectual disabilities.

Although Taiwan isn't a member of the United Nations, it has aimed to improve the human rights in all walks of life by the ratification, through domestic law, of many international human rights treaties, including:

- the International Covenant on Civil and Political Rights (ICCPR)
- the International Covenant on Economic, Social and Cultural rights (ICESCR)
- the Convention on the Rights of Elimination of All Forms of Discrimination Against Women (CEDAW)

- the Convention on the Rights of the Child (CRC)
- the Convention on the Rights of Persons with Disabilities (CRPD)

This is a country that successfully transformed from dictatorship to democracy without war and with stable economic achievement. Various components of Taiwanese civil society have stood together to improve the lives of future generations. Hence, we very much appreciate examination, investigation, and oversight by The International Committee on the Rights of the Child and will do all we can to ensure that this process brings profound change for the four million children in Taiwan.

### **3. General Measures of Implementation**

- **No coordinating body within the government for CRC implementation**

There is no coordinating body within the government to review and monitor implementation of the Convention. The Executive Yuan's Child and Youth Welfare and Rights Promotion Group currently supposes to take this responsibility, yet it has a very limited role in the implementation process. The group doesn't have a specialized team to manage all the required tasks. The group only meets once four months and never handles the complaints related to violations of the CRC. In addition the group having a poorly defined role, the meeting is always convened with less than a week notice, which affects the ample preparation of civil societies. The group has had eight meetings since the first one in 2014, but no distinct analysis or monitoring of expenditures on children has been made due to changes of the chairperson, executive secretary, and group members after the 2016 presidential election.

- **No legislation of children's commissioner/ombudsperson or similar representatives**

In spite of the members in Control Yuan might be interested in investigating any report involved with violation of the CRC, there is no specific or standing committee in Control Yuan directly and solely responsible for children's rights, nor are children able to file complaints directly and present themselves to the members or committees.

- **Outsourcing of public services for children**

Various NGOs work with the government to create a better environment for children, yet underfunded government contracts damage not only the provision of social services

related to children's rights and well-being, but also the sustainable development of civil societies. In past two decades, many statutory children's social work services have been outsourced, including:

- child protection hotline
- high risk family intervention
- family treatment programs
- emergency shelters for abused children
- foster care

However, funding for government contracts has been decreased. This has resulted in an inability to ensure that salaries, including but not limited to those of senior staff, can maintain parity with market rates. For instance, while the Labor Standards Act eventually enforced rules for maximum working hours and overtime wages in 2017, outsourced contracts of children's social work services do not comply with the change of law; instead, the government has ignored the additional expenses and asked affected NGOs to take over all consequences. It is illegal and irresponsible for the government to underfund the outsourced social services and put the public services for children in deficit.

#### **4. Definition of the Child**

- **Girls' minimum age of marriage**

Many recent measures have produced positive and important results. One notable remaining problem is the gap between the minimum age for marriage in boys (18 years) and girls (16 years). This difference is harmful to gender equity, especially for underprivileged girls who struggle with a lack of economic security, stability, and family support.

#### **5. General Principles**

- **Unequal enjoyment of rights**

The government has not developed a national strategy to tackle many forms of discrimination faced by children at school and in daily life, including distinctions in ethnicity, gender, socioeconomic status (SES), and sexual orientation. Aboriginal, LGBTQ, children whose mother is "new immigrant" (from Southeast Asian countries like

Indonesia, Thailand, Vietnam, the Philippines etc through mail bride) and children replaced at foster care are still the majority of school bullying victims.

With regard to stateless children or children of uncertain nationality, their rights to school and medical services are only assured on the basis of temporary assistance and are assessed case by case. Many such children who have lived in Taiwan from birth are the offspring of migrant workers, yet the temporary benefits they may receive are automatically suspended when they turn 18. As a result, such children can't go to college or acquire driver licenses. In some cases, they may be obligated to marry a Taiwanese to gain citizenship and its entitlements. The lack of nationality increases the uncertainty of these children's future, resulting in destructive effects on their development.

While poverty impacts all aspects of children's lives and enjoyment of their rights, especially the accumulation of economic and cultural capital, the Taiwanese government has failed to adjust qualifications for low-income benefits and to allow more children to benefit from public services. Many children from working poor families can only rely on the temporary assistance of NGOs.

Increasing income inequality has deepened the gap between advantaged and disadvantaged children. Compared to children living in affluent neighborhoods in cities, children living in rural areas or who belong to mountainous indigenous tribes suffer a lack of sufficient health care and integration with civil activities. They also suffer from a lack of educational resources, including the quantity and quality of qualified teachers in primary and secondary education. While class size is getting smaller in both elementary and middle schools over the past decade due to a low birth rates, the number of substitute teachers in both systems are increased, especially in rural areas, where the rate of substitute teachers is 10% higher than urban areas. The government cut off the number of regular teachers to avoid their pensions. The budget cut has made more and more schools seek substitute teachers, especially in remote areas where hiring qualified teachers is already challenging. The substitute teachers are unable to stay long in the schools due to low payment, high cost to commute to city for training, and shortage of social support. In the worst scenario, the students encountered three to four teachers in

one school year. The high turnover rate of teachers worsens students' interests and confidence in learning.

- **Child deaths and trauma in juvenile correctional schools**

In 2015, the Control Yuan issued a report regarding life-threatening disciplinary misconduct in two juvenile correctional schools from 2012 to 2014. Examples cited include:

- One child died following severe corporal punishment and a failure to provide appropriate medical services afterwards.
- Over a dozen children were sent to hospital emergency rooms due to Rhabdomyolysis<sup>1</sup>, after a series of intense “physical trainings” meant as punishment.
- Several children were placed in disciplinary confinement lasting from weeks to 17 months, which caused constant self-harm and sleep disorders.

All these children were unable to report their concerns to the schools' appeals committees when the maltreatment occurred. Despite widespread anger and calls for actions regarding the incidents in the correctional schools, funding for long-term and sufficient mental health professionals and safe mechanisms for reporting abuse in correctional facilities has not been provided for school reform.

## **6. Civil Rights and Freedoms**

- **Lack of appropriate news channels for children**

The Public Television Service (TPS) and Da Ai TV (a Buddhism-based cable TV) are the only two media institutes that broadcast appropriate news for children and families during lunch and dinner time. All other news channels are full of YouTube clips and unproved material shared on certain Facebook groups. There was no local news channel designed for children until the “Youth Advocate” on TPS in 2016, yet the program broadcasts only on a weekly basis due to underfunding. The lack of news programs or a channel suitable for children significantly weakens children's discussion of and participation in civil issues.

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<sup>1</sup> This is a serious syndrome due to a direct or indirect muscle injury. It can lead to serious complications such as renal failure or even cause death.

- **Corporal Punishment**

According to different surveys developed by various NGOs, 50% to 90% of children experience some degree of corporal punishment at home and in school at least once the past year. Children with disabilities and those in the juvenile justice system are especially vulnerable, given their inability to call for attention and help. Although corporal punishment is prohibited in schools and foster care, the enforcement and monitoring of laws regarding corporal punishment are questionable.

## **7. Family environment and alternative care**

- **Children are left in foster care without court order**

Theoretically, every child who is removed from his/her home and placed at foster care must go through the court. However, because of the high caseloads of child protection social workers, many children who are neglected at home are placed in foster care only through the contracts between local governments and the guardians. The contract can be suspended as long as the parents want, yet most of the time these parents are too busy at themselves to ask for suspension. These parents mostly have issues of substance abuse or mental disabilities. In other words, the child protection social workers do not work with the family to make a treatment plan and to review the progress because they do not have to make periodic reports to the court. While it seems to solve the workloads of child protection social workers, the endless foster care increases the uncertainty of children's development and causes their trauma of abandonment.

- **Lack of differentiation of foster care**

While the government is becoming aware of the need to improve its response to reports of child abuse and neglect, foster care families and institutes operated mostly by NGOs, are still unable to develop targeted responses for children with special needs, due to underfunding of government outsourcing contracts. Children in foster care are referred from a variety of sources. They might be survivors of sexual trafficking, child abuse and neglect, or the victims of substance abuse and crime. These children may have disruptive behavioral disorders or severe trauma requiring intensive mental health care. However, the government does not fund NGOs to create different levels of foster care in which children's special need can be met. This all-in-one policy has



created negative impacts on the professional development of foster care system and has in many cases prevented or lessened the protection and development of foster youth.

- **Lack of social housing for youth age out of foster care**

Article 4 of the Housing Act requires the government to provide at least 30% of social housing for vulnerable populations, including youth released from foster care and those younger than 25 years old. Yet, none of the adolescents we served were able to apply for public housing within one year follow-up services. All the youths had to rent through the private sectors; some of them paid their deposit from their savings in foster care, and some of them had to rely on a housing subsidy through the foster care institute or through the help of friends. Acquiring accommodation presents a huge challenge for youth out of foster care, but the government has never met their needs.

## **8. Basic health and welfare**

- **Lack of mental health care for adolescents with substance abuse**

Hospitals offering free or low-cost mental health services for teenagers with substance abuse issues are only present in certain cities. While the number of teenagers misusing prescriptions drugs, Ketamine, and the “rape drug” FM2 has doubled in the past ten years, there is no concomitant increase in community-based mental health services. Children with low-level drug offenses only pay the fine and attend four to eight hours lecture about “the danger and damage of substance abuse.” These children frequently are not contacted by any mental health professional, including social workers, therapists, psychologists, and public health nurses, unless they are assigned to replacement care or correctional schools due to dysfunctional family situations or commitment of other crimes. Given the taboo against public funding for substance abuse treatment, whether for adults or minors, the mental health services for substance abuse is always underfunded.

## **9. Education, leisure and cultural activities**

- **Some children are left behind, while others are forced to test more**

Article 12 of the Primary and Junior High School Act requires elementary and middle schools to divide classes in all grades so that each class reflects a normal distribution.

However, it appears that while the law might be fully implemented in city; in rural areas, it is not unusual to see middle school students are concentrated in two types of classes only on the basis of their grades.

Students are frequently divided into two kinds of classes:

- One is a so-called “A class (nicknamed elites class)”, in which students are forced to take tests every day to reach a high score on the “Comprehensive Assessment Program for Junior High School Students” test (formerly known as the Basic Competence Test for Junior High School Student).
- The other is a so-called “B class (nicknamed lose class),” in which most students do not pursue higher education after they are 15 years old. In this type of class, students often only physically sit in the class; they might sleep or play their cellphone instead of learning, especially given the lack of passion for teaching evinced by many teachers. It’s no surprise either that teachers use corporal punishment when students have behavior issues in class.

Students usually don’t get to choose which kind of class they attend. For the students assigned to a B class who want to learn, the bifurcated classes represent an internal discrimination and usually make them feel unworthy, hopeless and helpless. For the students assigned to A class but who want to develop other talents and interests, like crafting or dance, the endless tests just increase their stress and make them confused and unhappy. While education is supposed to be a right in accordance with the CRC, many Taiwanese middle schools students might only have feelings of depression and obligation toward school because they are pushed like robots to get good grades across all subjects rather than enjoy the fun of learning.

## **10. Special protection measures**

### **• Minority children disproportionately in foster care and juvenile system**

While indigenous children only constitute 4% of the general child population, in our practice, we found that indigenous children range from 10% to 40% in youth foster institutes. Among the children referred from juvenile court, 6% to 20% are indigenous children. While there is no official data or academic study available to explore the percentage of indigenous children in the foster care and juvenile justice system, our experience in indigenous community services show that drug and alcohol abuse is not an individual issue. It is actually an urgent risk to indigenous communities. Yet there are

no community-based and culturally appropriate substance-abuse treatment services for non-urban indigenous populations. Indigenous rights have been ignored through discriminatory policies throughout modern Taiwanese history. Comprehensive surveys to promulgate implementation of CRC and basic rights protection for indigenous children should be put into priority.

## **11. List of Recommendations**

- 1) The government should establish a children’s human rights unit within the Presidential Office Human Rights Consultative Committee. The unit’s remit should consist of:
  - coordination of the implementation of the CRC
  - the publication of a national children’s rights implementation plan, including the expenditures on children which have to be separated out and shown discretely and collected systematically.
  - increasing awareness of children’s rights throughout the government and private sectors
- 2) The children’s rights unit should establish an effective formal structure for cooperation and collaboration with children’s-rights NGOs, including students groups or organizations run by children.
- 3) Legislation should ensure a role (e.g., Children’s Commissioner/Ombudsperson) that has the necessary mandate, independence, and powers to properly perform the functions of a national independent human rights institution for children, consistent with the Paris Principles and the UN Committee’s General Comment No. 2.
- 4) The CRC should be included in the statutory national curriculum and accessible materials produced for all ages and abilities of children. Parents should receive information about the Convention through welfare, education and health services. All professionals who work with children, including but not limited to teachers, social workers, doctors and nurses, law enforcement, attorneys and judges should be informed and updated the CRC through continuous trainings.
- 5) The government should regularly conduct surveys on the wellbeing of children, including the detailed assessment for minority children. The systematic data collection and analyses disaggregated by age and other relevant criteria should release to public under proper privacy protection.

- 6) The government should develop a national strategy to end all forms of discrimination against children, including class division based on children's grades. Children should be meaningfully engaged in the development of such a strategy.
- 7) The government should form an independent investigation taskforce to review the unexpected death of any child.
- 8) The minimum age for marriage for girls should be 18 years.
- 9) The government should reexamine the qualification for low-income household benefits and tackle inequality by all means.
- 10) The government should review and amend the Nationality Act to help "stateless" children who live in Taiwan but haven't been granted citizenship by their country of origin to gain Taiwanese citizenship without resorting to marriage.
- 11) The government should constantly review and reexamine the funding standard for outsourcing contracts of public services related to children.
- 12) The method for confidential and safe reporting of misconduct in disciplining in all types of schools should be set up.
- 13) A statutory right to counseling and mental health assessment and services should be available for all children, especially for children with substance issues. Mindfulness-based programs should not only be a practice in correctional schools, but be integrated in schools and community services to improve all children's mental wellness.